

Arnold Schwarzenegger, Governor
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Business, Transportation and Housing Agency

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OFFICE OF
ENFORCEMENT

November 24, 2003

Ronald I. Brendzel
Senior Vice President
Safeguard Health Plans, Inc.
95 Enterprise
Aliso Viejo, CA 92656

**RE: Grievance Matter No.: 94518
Enforcement Matter No.: 03-129**

Dear Mr. Brendzel:

LETTER OF AGREEMENT

The Office of Enforcement of the Department of Managed Health Care ("DMHC") has completed its investigation of Safeguard Health Plans, Inc. ("Safeguard") and its violations of Health and Safety Code section 1368.02, subdivision (b), as well as Rules 1300.68, subdivision (d) (7), 1300.68, subdivision (d) (3), and 1300.68, subdivision (a) (4) (A) of title 28 of the California Code of Regulations ("CCR") in the above referenced matter. The relevant facts are as follows:

On or about January 28, 2003, the enrollee completed a Safeguard grievance form that was received by Safeguard on February 3, 2003. Safeguard acknowledged the grievance in a letter dated February 4, 2003. Both the grievance form and the acknowledgement letter did not contain the updated paragraph as required by Health and Safety Code section 1368.02, subdivision (b) and Rule 1300.68 (d) (7) of title 28 of the CCR. The required paragraph states as follows:

"The California Department of Managed Health Care is responsible for regulating health care service plans. If you have a grievance against your health plan, you should first telephone your health plan at (insert health

plan's telephone number) and use your health plan's grievance process before contacting the department. Utilizing this grievance procedure does not prohibit any potential legal rights or remedies that may be available to you. If you need help with a grievance involving an emergency, a grievance that has not been satisfactorily resolved by your health plan, or a grievance that has remained unresolved for more than 30 days, you may call the department for assistance. You may also be eligible for an Independent Medical Review (IMR). If you are eligible for IMR, the IMR process will provide an impartial review of medical decisions made by a health plan related to the medical necessity of a proposed service or treatment, coverage decisions for treatments that are experimental or investigational in nature and payment disputes for emergency or urgent medical services. The department also has a toll-free telephone number (1-888-HMO-2219) and a TDD line (1-877-688-9891) for the hearing and speech impaired. The department's Internet Web site <http://www.hmohelp.ca.gov> has complaint forms, IMR application forms and instructions online." (Health & Saf. Code §1368.02 (b).)

Effective January 1, 2003, Safeguard was required to publish the above paragraph on every plan contract, every evidence of coverage, on copies of plan grievance procedures, on plan complaint forms, and on all written notices to enrollees that are required under the grievance process of the plan. These notices include any written communication to an enrollee that offer the enrollee an opportunity to participate in the grievance process, including all written responses to grievances.

Additionally, the Evidence of Coverage, which was attached to Safeguard's correspondence to the DMHC in response to the grievance, did not contain the updated paragraph. At this time the DMHC will not assess a penalty for these oversights, but will consider them should the DMHC be informed of continued violations.

Moreover, in reviewing Safeguard's handling of the enrollee's grievance, it became evident that Safeguard requires enrollees to engage in a two-tiered system to appeal the decision on a grievance after the 30-day resolution period. This process is described on both the grievance form and in the Evidence of Coverage. However, Rule 1300.68, subdivision (a) (4) (A) of the CCR requires that a grievance be "Resolved", on all levels, with finality (i.e., no pending issues on appeal) within 30 calendar days of Safeguard's receipt of the grievance.

Finally, the enrollee did not receive the final resolution letter regarding the grievance within the time prescribed by Rule 1300.68, subdivision (d) (3) of the CCR. This rule requires that Safeguard's resolution, including a written response to the grievance, must be sent to the enrollee within 30 calendar days of receipt of the grievance. While the resolution letter was dated March 4, 2003, the envelope containing this letter was postmarked March 14, 2003, 10 days late. Safeguard claims that it uses a mail sorting service that has a presort feature, and that the letter was placed in the U.S. mail on the

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same day it was dated. Therefore, Safeguard could not understand the reason for the delay. However, Safeguard accepts responsibility for the delay.

After a thorough investigation of this matter, the DMHC determined that an administrative penalty of \$7,500.00 was warranted. Safeguard acknowledged the violations and agreed to pay the penalty.

Sincerely,

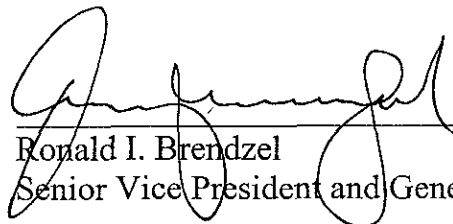


G. Lewis Chartrand
General Counsel
Office of Enforcement

AAA:vb

Accepted by Safeguard Health Plans, Inc.

DATE: 12-2-03



SPVP & C.

Ronald I. Brendzel
Senior Vice President and General Counsel